

DEFICIENCY PROGRESS REPORT – UPDATE 2

December 16, 2008

CUPA: DEL NORTE COUNTY DEPARTMENT OF HEALTH & HUMAN SERVICES

Evaluation Date: June 4 and 5, 2008

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Update 2 Submittal Date: December 3, 2008

Status: Deficiencies 1, 2, 3, 5-9, 11, and 13-21 remain outstanding.

Next Progress Report (3rd Update) Due: **March 2, 2009**

1. Deficiency: The CUPA is not implementing its fee accountability program.

Corrective Action: By December 2, 2008, the CUPA shall implement its fee accountability program per its policies and procedures and in accordance with the law.

CUPA Update 1: [We are in the process of reviewing the program (especially costs related to administering the program so that we can come up with a reasonable fee). With Ron and Leon coming on full-time in July, we are just about caught up with the back log of issues that arose during our staffing transition. We will be able to give CUPA and APSA more focus, especially now that events like the county fair are over and done with. I believe we have until December 2 to have a more formal response to this deficiency.]

Comments to Update 1: *This deficiency remains outstanding. On the next update, due on December 2, 2008, please submit a status or progress report toward correcting this deficiency.*

CUPA Update 2: Del Norte has nearly completed an updated database of all UST and AST. The data base includes Return to Compliance Dates but still needs updated billing information. Del Norte historically has had three Environmental Health Scientists. We are now operating with two and our third position has been frozen due to the state's budgetary issues. The data base is updated but time has not been sufficient to completely rework the fee accountability system. The inspection forms have been updated and are in effect. Del Norte respectfully requests a six month extension for deficiency correction. During this time we plan to:

- a. Staff training. Leon will attend in January 2009, and Ron in near future.
- b. Re-write the UST Operational Manual.
- c. Complete the data base to include accurate billing information.
- d. Consider and explore the possibility of contracting with a CUPA consultant.
- e. Update current filing system to include complete and accurate inspection information;
- f. Develop the Fee Accountability Structure.

- g. Develop inspection checklists to include inspection frequency, violation and enforcement information.

Attempting to re-write the manual and develop the fee accountability system without attending training is felt to be counter productive. Del Norte County CUPA acknowledges that training and the fee accountability system should have been accomplished long ago, but training now is in the best interest of the program with a clean slate approach.

Comments to Update 2: *Cal/EPA acknowledges the CUPA's request for an extension. On the next progress report, due on March 2, 2009, please continue to update Cal/EPA on the status of this deficiency.*

- 2. **Deficiency:** The CUPA is not accurately reporting some items requested on its Annual Inspection Summary Report 3.

Corrective Action: By September 3, 2008, the CUPA will develop and implement an action plan to ensure that inspections, violations, and RTC information are tracked, such as a database system. By September 30, 2009, the CUPA will submit an Annual Inspection Summary Report that will be complete and accurate.

CUPA Update 1: CUPA staff is currently preparing the annual summary reports, including the Annual Inspection Summary Report. The reports for 2007-2008 will be submitted before September 30, 2008. A tracking database similar to the UST database already in use and based on file reviews, is being prepared to allow enhanced accuracy and completeness of these reports for 2008-2009 and following years.

Comments to Update 1: *This deficiency remains in the process of being corrected. Please submit the Annual Summary Reports to Cal/EPA by September 30, 2008.*

CUPA Update 2: This will be addressed in our system improvement plan.

Comments to Update 2: *Based on the CUPA's Annual Inspection and Enforcement Summary Reports for FY 07/08, this deficiency remains in the process of being corrected. On the next progress report, due March 2, 2009, please update Cal/EPA on the CUPA's progress toward correcting this deficiency.*

- 3. **Deficiency:** The CUPA is not fully tracking and accurately reporting violations information and enforcement actions taken on its Annual Enforcement Summary Report 4.

Corrective Action: By September 3, 2008, the CUPA will develop and implement an action plan to ensure that violations information and enforcement actions taken are tracked. By September 30, 2009, the CUPA will submit an Annual Enforcement Summary Report that will be complete and accurate.

CUPA Update 1: See CUPA Update 1 for Deficiency 2, above.

Comments to Update 1: *This deficiency remains in the process of being corrected. Please submit the Annual Summary Reports to Cal/EPA by September 30, 2008.*

CUPA Update 2: This will be addressed in our system improvement plan.

Comments to Update 2: *Based on the CUPA's Annual Inspection and Enforcement Summary Reports for FY 07/08, this deficiency remains in the process of being corrected. On the next progress report, due March 2, 2009, please update Cal/EPA on the CUPA's progress toward correcting this deficiency.*

4. **Deficiency:** The CUPA has not developed and implemented a procedure for issuing a Unified Program facility permit.

Corrective Action: By June 1, 2009, the CUPA will develop and fully implement a consolidated permitting process for its regulated community. Beginning September 3, 2008, the CUPA will submit a report of their progress toward correcting this deficiency, including a sample Unified Program Facility Permit recently issued, if available.

CUPA Update 1: [This deficiency has been withdrawn by Cal/EPA. No further corrective action is required.]

5. **Deficiency:** The CUPA's Inspection and Enforcement (I&E) Program Plan does not contain some required elements.

Corrective Action: By December 2, 2008, the CUPA will update its I&E Program Plan to include all current requirements.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. On the next update, due on December 2, 2008, please submit a status or progress report detailing how the CUPA is correcting this deficiency, including a copy of the CUPA's updated I&E Program Plan, if available.*

CUPA Update 2: The plan will be updated as part of the system improvement as specified under Deficiency [#] 1.

Comments to Update 2: *This deficiency remains outstanding. On the next update, due on March 2, 2009, please submit a status or progress report detailing how the CUPA is correcting this deficiency, including a copy of the CUPA's updated I&E Program Plan, if available.*

- 6. Deficiency:** The CUPA is not documenting its inspections for the hazardous materials business plan (business plan) and California Accidental Release Prevention (CalARP) programs in a manner consistent with its I&E Program Plan.

Corrective Action: The CUPA will follow its I&E Program Plan. By September 3, 2008, the CUPA will develop detailed inspection checklists for the business plan and CalARP programs.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. On the next update, due on December 2, 2008, please submit a status or progress report toward correcting this deficiency.*

CUPA Update 2: The plan will be updated as part of the system improvement as specified under Deficiency [#] 1.

Comments to Update 2: *This deficiency remains outstanding. On the next update, due on March 2, 2009, please submit a status or progress report toward correcting this deficiency. Also, include examples of inspection reports for both business plan and CalARP facilities inspected during the current fiscal year.*

- 7. Deficiency:** The CUPA is not conducting hazardous waste generator inspections with a frequency consistent with its I&E Program Plan, which is annual.

Corrective Action: By December 2, 2008, the CUPA will update its I&E Program Plan to reflect a realistic goal for inspecting its hazardous waste generator facilities. By December 2, 2008, the CUPA will develop a strategy and begin implementation of a plan to ensure adherence to the inspection frequency per its revised I&E Program Plan. Beginning September 3, 2008, the CUPA will submit a status of their progress, including the total number of regulated facilities and the number of routine compliance inspections conducted.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. Cal/EPA looks forward to reviewing the CUPA's Annual Inspection Summary Report 4 for FY 07/08 to determine the CUPA's progress toward correcting this deficiency. If Cal/EPA determines that the CUPA is still below its annual inspection goal, then the CUPA must update its I&E Program Plan to reflect a realistic goal for inspecting its hazardous waste generator facilities by December 2, 2008. In addition, the CUPA must submit an action plan toward correcting this deficiency.*

CUPA Update 2: The plan will be updated as part of the system improvement as specified under Deficiency [#] 1.

Comments to Update 2: *This deficiency remains outstanding. On the next progress report, due March 2, 2009, the CUPA will submit a status or progress report toward correcting this deficiency.*

8. **Deficiency:** The CUPA is not inspecting its hazardous materials business plan facilities with a frequency consistent with its I&E Program Plan, which is annual.

Corrective Action: By December 2, 2008, the CUPA will update its I&E Program Plan to reflect a realistic goal for inspecting its hazardous materials business plan facilities. By December 2, 2008, the CUPA will develop a strategy and begin implementation of a plan to inspect all business plan facilities according to its revised I&E Program Plan. Beginning September 3, 2008, the CUPA will submit a status of their progress, including the number of regulated facilities and the number of routine inspections conducted.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. The CUPA still needs to address the deficiency as noted in the corrective action by December 2, 2008. The CUPA must correct or submit an action plan toward correcting this deficiency in the next deficiency progress report.*

CUPA Update 2: The plan will be updated as part of the system improvement as specified under Deficiency [#] 1.

Comments to Update 2: *This deficiency remains outstanding. The CUPA must correct or submit an action plan toward correcting this deficiency in the next deficiency progress report, due on March 2, 2009.*

9. **Deficiency:** The CUPA is unable to document that some facilities that have received a notice to comply citing violations have returned to compliance within an established timeframe.

Corrective Action: The CUPA will follow its I&E Program Plan. By December 2, 2008, submit examples of RTC or a complete follow-up report for a hazardous waste generator site and an UST facility.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. On the next update, due on December 2, 2008, please submit examples of RTC or a complete follow-up report for a hazardous waste generator site and an UST facility.*

CUPA Update 2: The DNC CUPA has created a database with all UST and AST sites listed. [RTC] dates are also listed within the database information. The data base list will be submitted.

Comments to Update 2: *This deficiency remains outstanding. On the next update, due on March 2, 2009, please submit a status or progress report toward correcting this deficiency. If available, include examples of RTC or a complete follow-up report for a hazardous waste generator site and an UST facility.*

- 10. Deficiency:** Not all of the UST files contained the most recent forms, and some of the required permit submittals were absent in a few of the files; some of the submittals were unsigned, or they did not contain all of the required elements.

Corrective Action: By January 1, 2009, the CUPA will require all UST facility owners to complete new forms A, B, and D, and will ensure that all submittals (including response and plot plans) are in the files and that they contain all of the required elements.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. On the next update, due on December 2, 2008, please provide a status report on the progress of correcting this deficiency.*

CUPA Update 2: The DNC CUPA has replaced outdated forms and the new forms are being used. New forms are distributed on a case by case basis currently.

Comments to Update 2: *The SWRCB is pleased with the CUPA's progress in correcting this deficiency, and considers it corrected. No further update is requested.*

- 11. Deficiency:** The UST Permit to Operate/Conditions does not contain the language that the owner/operator will be compliant with article 16 and 18 of the California Code of Regulations title 23. Additionally, the permit and the conditions do not contain language that requires the plot plan to be maintained on site.

Corrective Action: By July 1, 2008, the CUPA will add the additional language to the Permit to Operate/Conditions that states that the owner/operator will maintain compliance with California Code of Regulations title 23, chapters 16 and 18 and that the plot plan is to be maintained on site.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. On the next update, due on December 2, 2008, please provide a status report on the progress of correcting this deficiency.*

CUPA Update 2: The plan will be updated as part of the system improvement as specified under Deficiency [#] 1.

Comments to Update 2: *This deficiency remains outstanding. On the next update, please provide a status report on the progress of correcting this deficiency.*

- 12. Deficiency:** The UST inspection checklist does not include items necessary for a complete inspection.

Corrective Action: By September 30, 2008, the CUPA will develop a more comprehensive inspection checklist, and develop a plan to ensure that RTC dates are included on the inspection report. The CUPA will develop a plan to ensure that all items are reviewed during a compliance inspection and include it in their revised I&E Program Plan.

CUPA Update 1: The attached Inspection Report Form has been adopted and included in the I&E Program Plan. It includes a section for recording RTC dates.

Comments to Update 1: *The SWRCB considers this deficiency corrected.*

- 13. Deficiency:** The CUPA does not have an installation/plan check checklist to ensure that proposed installations meet all of the required criteria.

Corrective Action: By January 1, 2009, the CUPA will develop a plan check checklist, to ensure that all installation criteria are met before an installation permit is issued.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. On the next update, due on December 2, 2008, please provide a status report on the progress of correcting this deficiency.*

CUPA Update 2: The checklist will be updated as part of the system improvement as specified under Deficiency [#] 1.

Comments to Update 2: *This deficiency remains outstanding. On the next update, please provide a status report on the progress of correcting this deficiency.*

- 14. Deficiency:** The CUPA's UST ordinance does not reference adoption of Health and Safety Code chapters 6.7 and 6.75, or California Code of Regulations title 23, chapters

16 and 18 requirements for consistency with the regulation, requirement or standard of performance.

Corrective Action: By January 1, 2009, the CUPA shall amend the local UST ordinance to reference the Health and Safety Code and California Code of Regulations title 23 requirements to ensure compliance with state standards.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. On the next update, due on December 2, 2008, please provide a status report on the progress of correcting this deficiency.*

CUPA Update 2: The ordinance will be updated as part of the system improvement as specified under Deficiency [#] 1.

Comments to Update 2: *This deficiency remains outstanding. On the next update, please provide a status report on the progress of correcting this deficiency.*

15. Deficiency: The CUPA is not inspecting each stationary source at least once every three years for compliance under the CalARP program.

Corrective Action: Until the regulated substance (chlorine) is no longer present at the stationary source, the CUPA must continue to inspect the facility under the CalARP program. Beginning September 3, 2008, the CUPA will submit a status of their progress, including the status of the facility. Also, once the CalARP facility has converted over to hypochlorite and no longer has any chlorine on site, please notify Cal/EPA and OES.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. The CUPA still needs to address the deficiency as noted in the corrective action by December 2, 2008. The CUPA must correct or submit an action plan toward correcting this deficiency in the next deficiency progress report.*

CUPA Update 2: This facility is currently in restructuring process. The DNC CUPA will notify CAL/EPA and OES upon completion.

Comments to Update 2: *This deficiency remains outstanding. On the next update, please provide a status report on the progress of correcting this deficiency.*

16. Deficiency: The CUPA did not initiate enforcement actions when appropriate.

Corrective Action: Until the regulated substance (chlorine) is no longer present at the stationary source, the facility remains subject to the CalARP program. Therefore, the CUPA must follow through with their formal enforcement process as outlined in its I&E Program Plan. The CUPA will immediately initiate enforcement action against the Smith River Community Services District for not submitting a RMP.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. The CUPA needs to address this deficiency as noted in the corrective action by December 2, 2008. The CUPA must correct or submit an action plan toward correcting this deficiency in the next deficiency progress report.*

CUPA Update 2: This facility is currently in restructuring process. The DNC CUPA will notify Cal/EPA and OES upon completion.

Comments to Update 2: *This deficiency remains outstanding. The facility (Smith River Community Services District) remains out of compliance and has been out of compliance since May 1, 2002. Until the regulated substance (chlorine) is no longer present at this stationary source, the facility remains subject to the CalARP program. As such, the CUPA must follow through with its formal enforcement process as outlined in the I&E Program Plan and county ordinance. By the next progress report, due on March 2, 2009, the CUPA will have initiated its formal enforcement action procedure and report the status to Cal/EPA.*

17. Deficiency: The CUPA is not indexing the hazardous materials business plan files by street address and company name.

Corrective Action: By September 3, 2008, the CUPA shall index business plan files by street address and company name.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. The CUPA still needs to address the deficiency as noted in the corrective action by December 2, 2008. The CUPA must correct or submit an action plan toward correcting this deficiency in the next deficiency progress report.*

CUPA Update 2: The business plan files will be updated as part of the system improvement as specified under Deficiency [#] 1.

Comments to Update 2: *This deficiency remains outstanding. The CUPA must correct or submit an action plan toward correcting this deficiency in the next deficiency progress report, due on March 2, 2009.*

18. Deficiency: The CUPA did not ensure that each business annually submits its hazardous materials inventory or a certification statement on or before March 1 to the CUPA.

Corrective Action: By September 1, 2008, the CUPA shall develop a mechanism to ensure that each business annually submits its hazardous materials inventory or a certification statement on or before March 1.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. The CUPA still needs to address the deficiency as noted in the corrective action by December 2, 2008. The CUPA must correct or submit an action plan toward correcting this deficiency in the next deficiency progress report.*

CUPA Update 2: This will be addressed as part of our system improvement plan.

Comments to Update 2: *This deficiency remains outstanding. The CUPA must correct or submit an action plan toward correcting this deficiency in the next deficiency progress report, due on March 2, 2009.*

19. Deficiency: The CUPA did not ensure that all the business plans are complete and accurate.

Corrective Action: By September 3, 2008, the CUPA shall develop an evaluation/review process to ensure that all business plans are complete and accurate.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. The CUPA still needs to address the deficiency as noted in the corrective action by December 2, 2008. The CUPA must correct or submit an action plan toward correcting this deficiency in the next deficiency progress report.*

CUPA Update 2: The business plan files have been reviewed and the need for updating the system is understood. This will be part of the system improvement plan as specified under Deficiency [#] 1.

Comments to Update 2: *This deficiency remains outstanding. The CUPA must correct or submit an action plan toward correcting this deficiency in the next deficiency progress report, due on March 2, 2009.*

20. Deficiency: The CUPA did not ensure businesses are certifying to them at least once every three years that they reviewed their business plan and that necessary changes were made to the plan.

Corrective Action: By September 3, 2008, the CUPA shall develop a mechanism to ensure that each business reviews their business plan and that necessary changes are made to the plan.

CUPA Update 1: We are revising our annual *Hazardous Material Inventory Certification* form to incorporate a directive that will require that businesses certify that they have reviewed their business plan and have made any necessary changes.

Comments to Update 1: *This deficiency remains uncorrected. The CUPA needs to address the deficiency as noted in the corrective action by December 2, 2008. The CUPA must submit their certification form and a description of the mechanism to ensure that each business reviews their business plan and that necessary changes are made to the plan in the next deficiency progress report.*

CUPA Update 2: The certification form is still under modification and will be addressed as part of the system improvement plan as specified under Deficiency [#] 1.

Comments to Update 2: *This deficiency remains outstanding. The CUPA must correct or submit an action plan toward correcting this deficiency in the next deficiency progress report, due on March 2, 2009.*

21. Deficiency: The CUPA's area plan does not contain some required elements.

Corrective Action: By December 2, 2008, the CUPA shall update their area plan to contain all the required elements.

CUPA Update 1: [No status or progress toward correcting the deficiency has been submitted at this time.]

Comments to Update 1: *This deficiency remains outstanding. The CUPA still needs to address the deficiency as noted in the corrective action by December 2, 2008. The CUPA must correct or submit an action plan toward correcting this deficiency in the next deficiency progress report.*

CUPA Update 2: The plan will be updated as part of the system improvement as specified under Deficiency [#] 1.

Comments to Update 2: *This deficiency remains outstanding. The CUPA must correct or submit an action plan toward correcting this deficiency in the next deficiency progress report, due on March 2, 2009.*